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MARK P. BOURGEOIS
P. O. BOX 95
OSCEOLA, IN 46561

In re Application of :
Heather Philpott :
Serial No.: 09/728,748 : PETITION DECISION
Filed: September 28, 2000 :
Attorney Docket No.: PH-17 :
:

This is in response to the renewed petition under 37 CFR 1.181, filed June 29, 2004, for withdrawal of abandonment of the above identified application. The delay in acting on this petition is regretted.

The previous petition decision, mailed May 21, 2004, denied applicant's request to withdraw the holding of abandonment based on failure to file a complete reply to a Request for Information. Applicant's reply to the Request, filed November 26, 2001, but received by the Office on January 18, 2002, due to mail screening delays, makes a reply to the Request by providing copies of Plant Breeders Registration Certificates issued by other countries, as required. The Request clearly stated also that **information on sale or public use of the plant anywhere in the world** was required to be disclosed. Applicant's reply specifically states (page 3, bottom) "Applicant declines, however, to provide information regarding public use and availability of the subject plant variety outside the United States..." Although applicant may have believed that the information required to be provided did not relate to, or have a bearing on, patentability, it was not applicant's prerogative to make such decision. That decision lies within the purview of the Office. Applicant's specific actions have been held to be grounds for the Office to hold the application abandoned, as has been done here. Although the Office may have delayed in acting on the reply, it is applicant's action and statement of refusal to comply which caused the application to be held abandoned.

The renewed petition has been carefully considered, but remains **DENIED**.

The application will be retained in storage.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Jasemine C. Chambers
Jasemine C. Chambers
Director, Technology Center 1600